THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.7744 of 2006

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DATED:18-04-2006

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BETWEEN

Suni Devi and others.

...PETITIONERS

AND

Kakinada Municipal Corporation, rep. By its Commissioner, Kakinada, East Godavari Dsitrict and another.

...RESPONDENTS

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.7744 of 2006

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ORDER:

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Petitioners seek a Writ of Mandamus to declare the action of the respondents

in attempting to demolish the building bearing door No.33-1-34, situated at Main Road, Kakinada, East Godavari District without following the procedure laid down in Kakinada Municipal Corporation Act or any other Act, as illegal and arbitrary.

The case of the petitioners is that the petitioners 1 to 3 and the husband of 1st petitioner are the owners of the upstairs building bearing door No.33-1-34 situated in the Main Road, Kakinada, East Godavari District. It is further stated that the officials of the respondents visited the premises of the petitioners and threatened to demolish the said building to a width of about 10 feet for the purpose of road widening. Hence, the writ petition.

The learned counsel for the petitioners submits that for the purpose of widening the road the respondents earmarked the structures belonging to the petitioners and the respondents are proposing to demolish the same without following due procedure prescribed in law. He further submits that even under the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act') without acquiring the lands of the private citizens, portion of any property cannot be taken away for the purpose of road widening, either by way of private negotiations or by way of initiating proceedings under the Act. He further submits that the petitioners have not encroached any road and they have constructed the building or structures as per the approved plan only.

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same by following due process of law. This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the respondents are directed not to demolish or take away any portion of the property of the petitioners and not to dispossess them without following due

process of law under Section 172(2) or 174 of the Act.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

Dated: 18-04-2006

sj